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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,802	04/27/2001	Takao Noguchi	206645US0	2819

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EXAMINER
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SONG, MATTHEW J

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/842,802

Applicant(s)

NOGUCHI ET AL.

Examiner

Matthew J. Song

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see page 5 of the remarks, filed 2/28/2006, with respect to 35 U.S.C 103 rejection in view of Yano ('105) and Yano ('647) have been fully considered and are persuasive. The rejection of claims 1-2 and 5-9 has been withdrawn.
2. Applicant's arguments with respect to claims 1-2 and 5-9 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 2 recites the limitation "second perovskite" in line 2. There is insufficient antecedent basis for this limitation in the claim. There is only one perovskite claimed.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-2 and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noguchi et al (JP 11-312801), an English Abstract and computer translation (CT) have been provided, in view of Tarui et al (US 5,674,563).

In a method of a single orientation metal film for use in a ferroelectric film, note entire reference, Noguchi et al teaches a laminated thin film comprising a single crystal substrate of Si, a  $\text{ZrO}_2$  thin film, a  $\text{Y}_2\text{O}_3$  thin film and a Platinum (Pt) thin film (CT [0055]), this reads on applicant's buffer layer. Noguchi et al also teaches the a variety of electronic devices may be formed by laminating a ferroelectric film on the laminated thin film (CT [0067]).

Noguchi et al does not teach a perovskite oxide thin film formed on the buffer layer and a ferroelectric film having a (100) and (001) orientation, which has a different composition than the perovskite oxide thin film.

In a method of forming a ferroelectric thin film, note entire reference, Tarui et al teaches forming PZT on a Pt substrate using a  $\text{PbTiO}_3$  buffer layer to improve the flatness of the PZT ferroelectric thin film (col 17, ln 1-25 and col 5, ln 35-67). Tarui et al also teaches the

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ferroelectric film was a c-axis orientation film exhibiting PZT (001) and is an epitaxial film (col 16, ln 1-40). Tarui et al is silent to the orientation of the orientation of the  $\text{PbTiO}_3$  layer. The  $\text{PbTiO}_3$  layer inherently has an (001) orientation because by the definition of epitaxy, the epitaxial PZT (001) mimics the orientation of the substrate it is formed on. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Noguchi et al by forming a  $\text{PbTiO}_3$  layer and a PZT layer on Noguchi's laminated thin film substrate to form a useful ferroelectric device ('563 col 1, ln 5-25).

Referring to claim 1, the combination of Noguchi et al and Tarui et al does not teach a ferroelectric film having (100) and (001) orientation, however this feature is inherent to the combination of Noguchi et al and Tarui et al because the combination of Noguchi et al and Tarui et al teaches forming the ferroelectric film over a Si substrate, as applicants. Applicants teach a ferroelectric film may have a  $90^\circ$  domain structure comprising (100) and (001) oriented crystals under the influence of stresses from the Si substrate. Therefore, the ferroelectric film taught by the combination of Noguchi et al and Tarui et al is expected to have (100) and (001) oriented crystals because the crystals would be influenced by the Si substrate in a similar manner, as taught by applicant.

Referring to claim 2, the combination of Noguchi et al and Tarui et al is silent to the perovskite has insulating properties, however this is inherent to the combination of Noguchi et al and Tarui et al because the combination of Noguchi et al and Tarui et al teaches a similar material as applicant, therefore a similar material will inherently have similar properties.

Referring to claim 5, the combination of Noguchi et al and Tarui et al teaches PZT. ('563 col 17, ln 1-15).

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Referring to claim 6, the combination of Noguchi et al and Tarui et al teaches electronic devices ('563 col 1, ln 5-10).

Referring to claim 7, the combination of Noguchi et al and Tarui et al teaches epitaxial growth of a perovskite and a ferroelectric film ('563 col 16, ln 5-40).

Referring to claim 8-9, the combination of Noguchi et al and Tarui et al teach  $\text{ZrO}_2$  and  $\text{Y}_2\text{O}_3$  (CT [0055]).

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Song whose telephone number is 571-272-1468. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJS  
May 4, 2006

  
YOGENDRA N. GUPTA  
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Examiner  
Art Unit 1722